

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

RODERICK CARMICHAEL,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:23-cv-00099-CLM-JHE
)	
SGT. BROWN, et al.,)	
)	
Defendants.)	

REPORT AND RECOMMENDATION

Plaintiff Roderick Carmichael filed a *pro se* complaint pursuant to 42 U.S.C. § 1983, alleging violations of his rights under the Constitution or laws of the United States. (Doc. 1). In accordance with the usual practices of this court and 28 U.S.C. § 636(b)(1), the complaint is before the undersigned magistrate judge for a preliminary report and recommendation. *See McCarthy v. Bronson*, 500 U.S. 136 (1991). As explained below, the undersigned recommends the court dismiss this action pursuant to Federal Rule of Civil Procedure Rule 41(b) based on Carmichael's failure to comply with a court order.

I. Analysis

On January 2, 2024, Carmichael notified the court that he had been transferred to Easterling Correctional Facility. (Doc. 23). However, the Alabama Department of Corrections website indicates Carmichael is now incarcerated at Ventress Correctional Facility.¹

On March 1, 2024, the undersigned ordered Carmichael to file a notice within 14 days stating (1) his current mailing address and (2) whether he wishes to continue prosecuting his claims. (Doc. 24 at 1). The undersigned warned Carmichael that if he did not comply with the

¹ See <https://doc.alabama.gov/InmateHistory> (last visited Mar. 26, 2024).

order by the deadline, the court may dismiss this case without further notice. (Doc. 24 at 1). The undersigned directed the Clerk of Court to mail the order to Carmichael at his address of record and to Ventress Correctional Facility, where he is currently housed. (Doc. 24 at 1).

More than 14 days have elapsed, and Carmichael has not complied with or otherwise responded to the order. Accordingly, the undersigned recommends the court dismiss this action based on Carmichael's failure to comply with a court order. FED. R. CIV. P. 41(b).

II. Recommendation

Based on the foregoing, the undersigned **RECOMMENDS** the court **DISMISS** this action **WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b) based on Carmichael's failure to comply with a court order.

III. Notice of Right to Object

The plaintiff may file specific written objections to this report and recommendation. Any objections must be filed with the Clerk of Court within **14 days**. The plaintiff must identify every objectionable finding of fact or recommendation and state the specific basis for every objection. The plaintiff also must identify every claim in the complaint that the report and recommendation has not addressed. Objections should not contain new allegations, present additional evidence, or repeat legal arguments.

A plaintiff who fails to object to factual or legal conclusions in the Magistrate Judge's report and recommendation waives the right to challenge on appeal those same conclusions adopted in the District Judge's order. Without a proper objection, however, the court on appeal may review the unobjected-to factual and legal conclusions for plain error if necessary in the interests of justice. 11th Cir. R. 3-1.

After receiving the plaintiff's objections, a District Judge will conduct a *de novo* review of the relevant portions of the report and recommendation and may accept, reject, or modify in whole or in part the Magistrate Judge's findings of fact and recommendations. The District Judge also may refer this action back to the Magistrate Judge with instructions for further proceedings.

The plaintiff may not appeal the Magistrate Judge's report and recommendation directly to the United States Court of Appeals for the Eleventh Circuit. The plaintiff may appeal only from a final judgment entered by a District Judge.

DONE this 26th day of March, 2024.

A handwritten signature in black ink, appearing to read 'J. H. England, III', written over a horizontal line.

JOHN H. ENGLAND, III
UNITED STATES MAGISTRATE JUDGE